IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3422 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJESH @ LALO GANPATBHAI RAJPUT

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3422 of 2004

MR RJ GOSWAMI for Petitioner No. 1

MS ARCHANA RAVAL, LD.AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 26/07/2004

ORAL JUDGEMENT

1. By filing this petition, the petitioner-detenu has challenged the detention order passed against him by the detaining authority, by its order dated 13.1.2004

under the provisions of the Gujarat Prevention of Anti-social Activities Act, 1985 ("PASA", for short). The petitioner is detained as a "bootlegger" under PASA. Along with the order, the petitioner was also served with the grounds of detention.

2. In the grounds of detention, there is a reference about four criminal cases filed against the petitioner under the Bombay Prohibition Act. It is alleged in the grounds of detention that the petitioner is dealing in country made as well as foreign liquor and accordingly doing illegal bootlegging activities. After recording subjective satisfaction, the detaining authority has detained him under PASA. The said detention order is challenged by the petitioner by way of this petition.

3. Learned advocate for the petitioner submitted that some of the documents supplied to the petitioner are absolutely not legible at all, particularly the order passed below bail application. At page 77 is the document which is not legible. It is not in dispute that the authority has relied upon the said document for passing the order of detention.

4. So far as the aforesaid aspect is concerned, learned AGP has also conceded that the document is not very legible. It was the duty of the Government to give atleast proper typed copies to the detenu. Since the said document is not legible, the right of detenu to make effective representation is denied on the aforesaid ground. Therefore, the impugned order is required to be quashed and set aside on the said ground.

5. In view of what is stated above, this petition is allowed. The order of detention dated 13.1.2004 is quashed and set aside. The detenu, Rajesh @ Lalo Ganpatbhai Rajput, is ordered to be set at liberty forthwith, if he is not required in connection with any other case.

6. At this stage, learned advocate for the petitioner, has voluntarily made a statement, after taking instructions from his client, that, the petitioner will not enter into Shahpur area upto 31st October, 2004, unless he is required to appear in any other case for attending the court. The Concerned Police Officer may also monitor this aspect so that the statement of the petitioner can be effectively taken care of by the authorities. Rule is made absolute to the aforesaid extent.

(P.B. Majmudar, J.)

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